## IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF DELAWARE KIA THOMAS and JEROME PITTS, SR, As Guardians ad Litem for J , a minor, 08 30S C.A. No. **Plaintiffs** v. THE BOARD OF EDUCATION OF THE BRANDYWINE SCHOOL DISTRICT: JOSEPH BRUMSKILL, MARK HUXSOLL, SANDRA SKELLEY, OLIVIA) JOHNSON-HARRIS, CRAIG GILBERT, DEBRA HEFFERNAN and NANCY DOOREY, all individually and in their official capacities as members of the Board ) of Education of the Brandywine School District; BRUCE HARTER, individually and his official capacity as Superintendent of the Brandywine School district; and RACHEL HOLT, individually,

Defendants.

#### NOTICE OF REMOVAL

Defendants, The Board of Education of the Brandywine School District, Joseph Brumskill, Mark Huxsoll, Sandra Skelley, Olivia Johnson-Harris, Craig Gilbert, Debra Heffernan and Nancy Doorey, individually and in their official capacities as members of the Board of Education of the Brandywine School District, Bruce Harter, individually and in his official capacity as Superintendent of the Brandywine School District, (hereinafter "Defendants"), by and through their undersigned counsel, hereby give notice that this matter has been removed pursuant to 28 U.S.C. § 1441, to the United States District Court for the District of Delaware. The grounds for removal are as follows:

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- 1. Plaintiffs Kia Thomas and Jerome Pitts, Sr., as Guardians ad Litem for J

  P , a minor, (hereinafter "Plaintiffs") commenced this action, entitled *Kia Thomas and Jerome Pitts, Sr., as Guardians ad Litem for J*, a minor, vs. Board of Education of the Brandywine School District, Jerome Brumskill, Mark Huxsoll, Sandra Skelley, Olivia Johnson-Harris, Craig Gilbert, Debra Heffernan, and Nancy Doorey, all individually and in their official capacities as members of the Board of Education of the Brandywine School District; Bruce Harter, individually and in his official capacity as Superintendent of the Brandywine School District; and Rachel Holt, individually, in the Superior Court of the State of Delaware in and for New Castle County (C.A. No. 08C-02-375). On information and belief, the Complaint ("Complaint") was filed on or about February 27, 2008.
- 2. Defendants first obtained a copy of Plaintiff's Complaint when it was served on March 31, 2008. A copy of the Complaint and Summons are attached as Exhibit 1.
- No further proceedings in this matter have been had in the Superior Court of the
   State of Delaware in and for New Castle County.
- 4. This action includes a federal claim pursuant to 42 U.S.C. § 1983, conferring original jurisdiction upon this court of any civil action arising under the laws of the United States.
- 5. Plaintiffs allege that Defendants adopted and maintained a policy, practice, or custom of deliberate indifference to the constitutional right of Plaintiff, to instances of known or suspected sexual abuse of students by teachers by failing to take action necessary to prevent sexual abuse of students by a teacher employed with Defendants.

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- 6. Plaintiffs further allege that their constitutional right to be free from state-imposed violations of bodily integrity have been denied under the Fourteenth Amendment of the U.S. Constitution and 42 U.S.C. § 1983.
- 7. To the extent Plaintiff is asserting any claims under state law, this Court has supplemental jurisdiction over said claims pursuant to 28 U.S.C. § 1367.
- 8. This Notice of Removal is being filed within 30 days of the Defendants' receipt of the Complaint and is hereby timely filed under 28 U.S.C. § 1446(b).
- 9. Defendants have filed a true and correct copy of the Notice of Removal with the Superior Court of the State of Delaware in and for New Castle County. A copy of the Notice is attached hereto as Exhibit 2.

WHEREFORE, Defendants respectfully request that this action now pending against them in the Superior Court of the State of Delaware in and for New Castle County, be removed therefrom to this Court and that this action be placed upon the docket of this Court for further proceedings, as though this action originally had been instituted in this Court.

Respectfully submitted,
YOUNG CONAWAY STARGATT & TAYLOR, LLP

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Barry M. Willoughby, Esquire (No. 1016) Maribeth L. Minella, Esquire (No. 4185)

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Attorneys for Defendants

Dated April 9, 2008

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#### CERTIFICATE OF SERVICE

I, Barry M. Willoughby, Esquire, hereby certify that on April 9, 2008 I caused two paper copies of the **Notice of Removal** and this certificate of service to be delivered via U.S. Mail to:

Thomas S. Neuberger, Esquire The Nueberger Firm, P.A. Two East Seventh Street, Suite 302 Wilmington, DE 19801

And

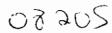
Rachel Holt Baylor Women's Correctional Institution 660 Baylor Boulevard New Castle, DE 19720

Barry M. Willoughby, Esquire (No. 1016)

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%JS 44 (Rev. 12/07)

### CIVIL COVER SHEET



The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS			DEFENDANTS				_	
Kia Thomas Guardians a Minor (b) County of Residence	Board of Education of the Brandywine School District, County of Residence of First Listed Defendant New Castle (IN U.S. PLAINTIFF CASES ONLY)							
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AO FORM 85 RECEIPT (REV. 9/04)	
United States District Court for the District of Delaware	
Civil Action No.	
<u>ACKNOWLEDGMENT</u>	
OF RECEIPT FOR AO FORM 85	

# NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE **TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE REC	EIPT OF COPIES OF AO FORM 85.
(Date forms issued)	(Signature of Party or their Representative)
	(Printed name of Party or their Representative)
Note: Completed receipt will be filed	in the Civil Action